

Note: the below text reflects proposed revisions to Chapter 19.80 as follows:

1. The initial version of the proposed amendments to CVMC Chapter 19.07 as placed on first reading by the City Council through its actions at the public hearing on April 12, 2007, are shown in underlined text (please see Section 19.80.070, page 4).
2. Additional proposed revisions in follow up to direction from Council at the April 24, 2007, meeting are shown in **UNDERLINED BOLD CAPITAL ITALICS** text (please see Section 19.80.070, page 4).

Exhibit A to City Council Ordinance _____
Proposed Amendments to Chula Vista Municipal Code
Chapter 19.80
CONTROLLED RESIDENTIAL DEVELOPMENT

Sections:

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19.80.010 Findings.

A. The city council of Chula Vista has had more than adequate time to produce a general plan that will protect the quality of life and home town character of Chula Vista, now and in the future, and has failed to do so.

B. The city is experiencing a period of intense residential development which adversely affects the health, safety and welfare of the citizens of Chula Vista, and;

C. This intense development has overloaded the capacity of the city streets and thoroughfares to move traffic safely, efficiently, and has failed to meet traffic demands, and;

D. This intense development has impacted neighborhood schools' capacity to absorb children, and;

E. This intense development has overburdened existing open space for recreational facilities and parks, and;

F. This intense development has hindered the city's ability to provide police, fire and paramedic protection at a satisfactory level. (Ord. 2309 Initiative 1988).

19.80.020 Statement of purposes and intent.

A. Chula Vista has experienced and continues to experience uncontrolled rapid residential growth. This unprecedented growth is having a serious impact on the city's traffic flow, schools, street maintenance, water and sewer services, environmental quality and the city's overall quality of life today and in the foreseeable future. The purpose of this measure is to qualify an effective and fair growth management ordinance by initiative petition of the voters, one that will control growth and protect the quality of life. This measure is not designed to halt quality growth, but to ensure that rampant, unplanned development does not overtax facilities and destroy the quality and home town character of Chula Vista.

B. It is the intent of the people of the city to better plan for and control the rate of residential growth in the city in order that the services provided by the city, school, park, utility and/or service agencies operating in the city can be properly and effectively staged in a manner which will not overextend existing facilities, and in order that deficient services may be brought up to required and necessary standards while minimizing, by means of long-range financial planning, the avoidable problems of shortsighted piecemeal growth. In order to accomplish this, this ordinance will guarantee that any fees collected for drainage, schools, streets, utilities, parks and recreation facilities shall be collected or assured by the developers in advance of development impacts and shall be properly utilized and spent by the city or agency in a timely manner to ensure that the impact of the development will not have a negative impact on the residents of Chula Vista.

C. It is the intent of the people of the city to establish control over the quality and rate of growth of the city in the interest of: preserving the character of the community; protecting the open space of the city; protecting the quality of life in the city; ensuring the adequacy of city facilities, school facilities, recreation and park facilities and services; ensuring the balanced development of the city; preventing further the significant deterioration of environmental quality; ensuring that the future traffic demands do not exceed the capacity of streets; ensuring the character of the city's existing neighborhoods are preserved; ensuring the adequacy of fire and police and paramedic protection; and ensuring adequate water and sanitary sewer systems. (Ord. 2309 Initiative 1988).

19.80.030 No development without adequate public services and facilities.

The city council shall ensure that the revised general plan will have a specific element known as the "public services and facilities element." The purpose of the element is to ensure development shall not occur in the city of Chula Vista that would degrade existing public services and facilities below acceptable standards until all additional necessary public services and facilities required for that development are assured or scheduled for timely completion as determined by the city council in accordance with but not limited to the following criteria:

A. If the existing major city streets and thoroughfares do not have the capacity to accommodate the proposed development without substantially altering existing traffic patterns or overloading the existing street system, then construction or widening of a major link or links in the major traffic network shall be staged as necessary to ensure the quality of existing traffic flow is maintained.

B. If the existing drainage facilities cannot adequately dispose of the surface runoff of the proposed development, then incremental construction of major and/or minor water course facilities shall be required.

C. If the existing water storage and distribution systems cannot service the needs of the proposed development, then incremental construction of major water system improvements shall be required.

D. If the existing city parks and recreation facilities are, according to the established standards, inadequate to serve the proposed development, financing and/or construction of parks and recreation facilities shall be required.

E. The fire and police departments shall have the capacity to provide fire and police protection in accordance with established response standards and fiscal policies of the city.

F. The appropriate school districts shall have the capacity to absorb the children expected to inhabit the proposed development.

G. The libraries shall have the capacity to properly service the people expected to inhabit the proposed development.

H. The capacity of sanitary sewer plants and effluent lines to dispose of waste of the proposed development shall be sufficient, or contributions by the proposed development toward additional construction of additional sewer system improvements shall be required. (Ord. 2309 Initiative 1988).

19.80.040 Funding of public services and facilities.

A. The city council shall require that any individual, partnership, joint venture or corporation receiving approval of a tentative subdivision map or any other discretionary approvals for any development project shall assure all funds necessary to meet public service and facility element needs and assure developer's participation in the timely construction and financing of facilities.

B. Assurance of construction and financing is defined as any acceptable financing method including but not limited to bonding, reimbursement agreement, development agreements, assessment districts, community facilities districts that provides assurance to the city that the required funds or improvements shall become available for the timely renovation or expansion of impacted public services and facilities.

C. The city council shall expend all funds collected under Section 19.80.040A solely for the purpose for which they were advanced. (Ord. 2309 Initiative 1988).

19.80.050 Timely renovation or expansion of public services and facilities.

Occupancy of residential development projects shall occur only in increments until related agreed upon renovations or expansions to the public services and facilities are scheduled for timely completion. (Ord. 2309 Initiative 1988).

19.80.060 Limitations of residential development exemptions.

The following are the only allowable exemptions under this ordinance:

A. Single family dwellings on existing single-family lots.

B. Rehabilitation, or remodeling of existing dwellings or replacement of an existing dwelling or a conversion of apartments to condominiums not adding any units.

C. Any development project that has vested rights prior to July 1, 1988. This measure shall apply to all proposed development or redevelopment of Chula Vista except a development or redevelopment proposal which has obtained a "vested right" as of the effective date of this measure. For purposes of this measure, a "vested right" shall be:

1. “A project’s right is vested where a property owner has performed substantial work and incurred substantial liabilities in good faith reliance upon a permit issued by the city.”

2. The “substantiality” of the expenditures incurred and of construction performed and the question of whether or not such expenditures and construction were in “good faith” are questions of fact to be determined on a case by case basis by the city council following application by the landowner or developer and upon notice to the interested public, and following public hearing.

D. Except for A, B, and C of this section, any development shall provide all necessary public services and facilities required to serve that development are insured in accordance with the criteria set forth in Section 19.80.040. (Ord. 2309 Initiative 1988).

19.80.070 Chula Vista zoning code modification.

A. Rezoning of property designated for residential development under the city’s zoning code shall be permitted only to the next highest residential density category in any two year period according to the following schedule:

A Agricultural Zone

R-E Residential Estates Zone

R-1 Single Family Residential Zone

R-2 One- and Two-Family Residential Zone

R-3 Apartment Residential Zone

Property in the county pre-zoned for annexation as part of a planned community shall be deemed in compliance with this section regardless of the county zoning approved for the property. Property in the city zoned or proposed to be rezoned as part of a planned community shall be deemed in compliance with this section.

Property in the city zoned or proposed to be rezoned as part of a comprehensive specific plan shall be deemed in compliance with this section only in such instance that the specific plan conforms to the requirements of CVMC 19.07, and is supported by the requisite findings of the planning commission and city council, as set forth in CVMC 19.07.012. **TO PROVIDE SUFFICIENT LEAD TIME AND AWARENESS OF FUTURE INTENSIFICATION OF LOWER DENSITY RESIDENTIAL AREAS, SHOULD THE PROPOSED SPECIFIC PLAN INCLUDE AREAS CURRENTLY ZONED ‘A’, ‘RE’, ‘R1’ OR ‘R2’ AT THE TIME OF ITS ADOPTION, AND SHOULD THE SPECIFIC PLAN’S ZONING DESIGNATIONS FOR ANY OF THOSE AREAS EFFECTIVELY RESULT IN AN INCREASE IN DENSITY GREATER THAN THE NEXT HIGHEST RESIDENTIAL CATEGORY (AS REFERENCED IN THE ABOVE ZONING SCHEDULE), THEN THE SPECIFIC PLAN SHALL INCLUDE THE FOLLOWING PROVISIONS REGARDING THOSE AREAS:**

1. PHASING CONTROLS THAT LIMIT THE AMOUNT OF ADDITIONAL DENSITY AVAILABLE INITIALLY UPON ADOPTION OF THE SPECIFIC PLAN, AND IN EACH SUBSEQUENT 2-YEAR PERIOD AS MAY BE NECESSARY, TO AN AMOUNT EQUIVALENT TO ONLY THE NEXT HIGHEST DENSITY CATEGORY PER THE ABOVE ZONING SCHEDULE. THESE AMOUNTS MUST BE CLEARLY

DEFINED FOR EACH APPLICABLE PERIOD, AND MADE AVAILABLE UPON COMPLETION OF THAT PERIOD.

2. RECOGNIZING THAT A SPECIFIC PLAN MAY USE ZONING CATEGORIES OR TITLES OTHER THAN THOSE IDENTIFIED ABOVE, A TABLE OR OTHER MEANS TO CLEARLY TRANSLATE THE RELATIVE DENSITY INCREASES ALLOWED UNDER THE ABOVE ZONING CATEGORIES (RE, R1, R2) TO THAT ALLOWED UNDER THE SPECIFIC PLAN INITIALLY, AND FOR EACH APPLICABLE 2-YEAR PERIOD.

3. WHERE ONE OR MORE 2-YEAR PERIODS WOULD BE NEEDED TO ACHIEVE THE FULL DENSITY OF THE SPECIFIC PLAN'S ZONE, THE FIRST PERIOD SHALL BEGIN UPON THE DATE OF ADOPTION OF THE SPECIFIC PLAN, AND EACH SUBSEQUENT PERIOD SHALL AUTOMATICALLY COMMENCE UPON EACH 2-YEAR ANNIVERSARY DATE, ULESSS OTHERWISE PRESCRIBED BY THE CITY COUNCIL IN CONJUNCTION WITH APPROVAL OF THE SPECIFIC PLAN.

AREAS WITHIN THE SPECIFIC PLAN ZONED R-3 OR A NON-RESIDENTIAL ZONE AT THE TIME OF THE PLAN'S ADOPTION ARE NOT SUBJECT TO THE ABOVE ZONING PHASING PROVISIONS.

This section shall not apply to rezones from a residential to a residential agricultural category.

B. Any annexation of lands within the city's sphere of influence shall conform to the purposes, intent and requirements of this ordinance.

C. After property is annexed by the city, the prezoning approved for the subject property cannot be amended or changed in any way for a two year period. This provision shall apply only to prezones approved after the effective date of this ordinance.

D. Rezoning commercial or industrial property to a residential zone shall be permitted only to the maximum residential density corresponding to the potential traffic generation that was applicable prior to the rezoning to residential. In addition, property which is rezoned from residential to commercial or industrial may not be rezoned to a residential category of higher density than that which was applicable prior to the rezoning to commercial or industrial. This provision shall apply only to rezones approved after the effective date of this ordinance.

E. Property which has been previously zoned which changes unit configuration resulting in the same or a decreased level of density (units) shall not be considered a zone change under this section. (Ord. 2309 Initiative 1988).

19.80.080 Adoption of consistent policies.

The city council of the city of Chula Vista is hereby authorized and directed to adopt such further ordinances, resolutions, policies or procedures consistent with the purposes, intents and requirements of the ordinance. (Ord. 2309 Initiative 1988).

19.80.090 Ordinances in conflict.

All provisions of the charter, city ordinances or provisions thereof in conflict with this chapter are hereby repealed. (Ord. 2309 Initiative 1988).

19.80.100 Modification.

The city council may, after a public hearing, and by an affirmative vote of no less than five members of the city council, amend any part of this ordinance, if said amendment and only if said amendment is clearly in keeping with the intent of this ordinance. Or, by no less than three affirmative votes of the city council, the city council may place a proposed amendment onto a ballot for the purpose of obtaining a binding vote of the people of the city concerning said amendment. (Ord. 2309 Initiative 1988).

19.80.110 Statement of voter intent.

This ordinance is inconsistent with and intended as an alternative to any initiative or ordinance which would place a fixed numerical limitation on the rate of residential construction or establish inflexible standards for the requirements of public facilities to be provided by any development project. If this ordinance and any such initiative ordinance are both passed by a majority voting thereon then the one with the most votes shall prevail. (Ord. 2309 Initiative 1988).

19.80.120 Judicial review.

A. Any legal action to challenge a decision or denial of the council or any other government body performing a function under this ordinance, must be filed in a court of competent jurisdiction within 30 days immediately following the action challenged.

B. Any legal action to challenge any provision of this ordinance or to challenge the intent of this ordinance, must be vigorously defended by the city. (Ord. 2309 Initiative 1988).

19.80.130 Severability.

If any provision of this ordinance, or the application thereof, to any person or circumstance is held invalid by a court of competent jurisdiction, the validity of the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby. (Ord. 2309 Initiative 1988).

19.80.140 Codification.

This ordinance shall be codified. (Ord. 2309 Initiative 1989).

19.80.150 Effective date.

This ordinance shall be considered as adopted upon the date that the vote is certified by the city clerk, and shall go into effect immediately thereafter. (Ord. 2309 Initiative 1988).

19.80.160 Publication.

The city clerk of the city of Chula Vista is hereby directed to publish this ordinance within fifteen days after its passage in the Chula Vista Star News, a newspaper of general circulation in the city of Chula Vista. (Ord. 2309 Initiative 1988).